

### **REMARKS**

The Office Action mailed October 14, 2005 has been carefully considered.  
Reconsideration in view of the following remarks is respectfully requested.

#### **Specification**

The specification has been amended in order to correct minor errors in some of the formulas disclosed. No new matter has been introduced.

#### **Subject Matter Indicated Allowed or Allowable**

Applicants gratefully acknowledge the indication of allowability of claims 10 and 18, subject to their re-writing in independent form. Claims 10 and 18 have been rewritten in independent form to include the limitations of independent claims 1 and 2, respectively, and correct minor grammatical errors not affecting their scope.

#### **Rejection(s) Under 35 U.S.C. § 102**

Claims 1, 2, 5, 6, 13 and 14 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Ogawa et al. (JP 57-108816).

Claims 1 and 2, from which the remaining claims depend, both recite a volume scatterer, which the Office Action equates with mode diffuser 21 of Ogawa et al. Applicants respectfully object to such a characterization because these two devices are entirely different. The mode diffuser of Ogawa et al. diffuses emission modes using a specific distribution of optical indexes in the device. Light propagation and manipulation in the diffuser is by way of diffraction. By comparison, the mechanism of volume scattering as takes place in the volume scatterer of claims 1 and 2 involves molecular or atomic collisions and interactions of the light with the material. These two devices are thus different and are recognized in the art as such.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 only if each and every claim element is found, either expressly or inherently

described, in a single prior art reference.<sup>1</sup> The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. § 102 rejection based on Ogawa et al. is respectfully urged.

**Rejection(s) Under 35 U.S.C. § 103 (a)**

Claims 3, 7-9, 11 and 15-17 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ogawa et al. Claims 4 and 12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ogawa et al. as applied to claims 1 or 2, and further in view of Muller et al. (U.S. pat. no. 5,401,270).

As discussed above, the limitation of a light scatterer is not disclosed in Ogawa et al. Further, there is no suggestion in Ogawa et al. that a light scatterer can be used, and one of ordinary skill in the art would not be motivated to modify Ogawa et al. to use a light scatterer in lieu of the mode diffuser 21. Muller et al., directed to a device for applying a laser beam to a human body, adds little to remedy this shortcoming of Ogawa et al.

It will be appreciated that according to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.<sup>2</sup>

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<sup>1</sup> Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

<sup>2</sup> M.P.E.P. § 2143.

Considering these criteria, the combination of Ogawa et al. with Muller et al. fails to rise to the level of a prima facie case of obviousness, and the rejection based on these references, taken singularly or in combination, should be withdrawn.

**Newly-Added Claims**

Claims 19-22 have been added to further particularly point out and distinctly claim the subject matter regarded as the invention. Support for these claims can be found in paragraph [0028] of the specification.

**Conclusion**

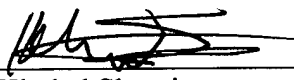
In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-1698.

Respectfully submitted,  
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